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UNCLAS ROME 002322

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SUBJECT: ITALIAN VIEWS ON THE ADVOCATE GENERAL'S OPINION ON OPEN SKIES CASES

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REF: STATE 37639

1. (U) SUMMARY: SENIOR ITALIAN TRANSPORT MINISTRY AND CIVIL AVIATION AUTHORITY (ENAC) OFFICIALS, AS WELL AS INFORMED SECTOR EXPERTS, AGREE THAT THE BILATERAL U.S.-ITALY OPEN SKIES AGREEMENT WILL CONTINUE IN EFFECT UNTIL A NEW U.S.-EU AGREEMENT IS SIGNED. ITALIAN OFFICIALS EXPECT TO BE INVOLVED IN THE NEGOTIATION OF THE NEW ACCORD, AND ANTICIPATE THAT IT WILL TAKE YEARS TO NEGOTIATE. END SUMMARY.

2. (U) ECONOFFS SPOKE WITH SENIOR GOI INTERNATIONAL AVIATION OFFICIALS IN THE TRANSPORT MINISTRY AND NATIONAL CIVIL AVIATION AUTHORITY (ENAC), AND ANOTHER INFORMED AVIATION EXPERT, REGARDING THE OPINION RELEASED BY THE EUROPEAN COURT OF JUSTICE (ECJ) JANUARY 31. THAT OPINION RELATED TO THE PENDING COURT CASES FILED IN 1998 BY THE EU COMMISSION AGAINST EU MEMBER STATES THAT HAVE CONCLUDED OPEN SKIES AGREEMENTS WITH THE UNITED STATES.

3. (SBU) ALESSIO QUARANTA, CHIEF OF INTERNATIONAL RELATIONS OF THE NATIONAL CIVIL AVIATION AUTHORITY (ENAC), TOLD US MAY 8 THAT, WHILE THE EC WILL EVENTUALLY GAIN A MANDATE TO NEGOTIATE SUCH AGREEMENTS FOR MEMBER STATES, HE DOES NOT BELIEVE THAT THIS WILL RENDER INVALID PREVIOUS BILATERAL AGREEMENTS. QUARANTA BELIEVES THAT ANY EC-NEGOTIATED AGREEMENT WOULD SIMPLY "COMPLEMENT" PREVIOUS BILATERAL AGREEMENTS, AND ALL FREEDOMS CONTAINED WITHIN THEM WOULD BE HONORED, EVEN IF NOT INCLUDED IN A LATER EC AGREEMENT. QUARANTA BELIEVES THAT MEMBER STATES (OR AT LEAST ITALY) WOULD SIT AS OBSERVERS IN ANY EC-LED NEGOTIATIONS WITH THE
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USG.

4. (SBU) ENAC'S MARINO BARZAGHI, ADVISOR TO THE PRESIDENT, AND LUISA TIMPONE, DIRECTOR OF INTERNATIONAL AGREEMENTS TOLD US THAT THEY BELIEVE THE STATUS QUO WILL CONTINUE UNTIL THE EU NEGOTIATES A NEW EU-USG AGREEMENT, WHICH IS UNLIKELY TO BE SOON.

5. (SBU) TRANSPORT MINISTRY DEPUTY DG FOR AVIATION ALDO SANSONE TOLD US THAT, AFTER THE EUROPEAN COURT OF JUSTICE DECISION, EU MEMBER STATES WILL DECIDE WITH THE EUROPEAN COMMISSION WHETHER EACH STATE SHOULD AGREE TO EXTEND ITS BILATERAL OPEN SKIES AGREEMENT TO ALL EU CARRIERS AND NATIONS OR WHETHER THE EU WILL BE GIVEN A MANDATE TO NEGOTIATE A USG-EU AGREEMENT (WHICH HE THINKS IS FAR MORE LIKELY).

6. (SBU) SANSONE STRESSED THAT THE BILATERAL U.S.-ITALY OPEN SKIES AGREEMENT WILL CONTINUE IN FORCE UNTIL THIS COMMON EU DECISION IS MADE. THE ITALIAN GOVERNMENT WILL CERTAINLY ABIDE BY THIS DECISION, ALTHOUGH ITALY AND THE NETHERLANDS ARE NOT INCLUDED IN THE 1998 COURT CASES FILED BY THE EU COMMISSION. SANSONE BELIEVES THE OMISSIONS WERE MERELY AN OVERSIGHT.

7. (SBU) SANSONE EXPECTS THAT EU MEMBER STATES WILL CONTINUE TO CONCLUDE BILATERAL AGREEMENTS WITH OTHER NON-EU MEMBER STATES (FOR EXAMPLE, BETWEEN ITALY AND TUNISIA) WHEN THE NEGOTIATED VALUE OF THE AGREEMENT IS NOT HIGH AND THEREFORE NOT IN CONFLICT WITH THE INTERESTS OF OTHER EU MEMBER STATES.

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8. (SBU) GUIDO VITALI, HEAD OF HUB DEVELOPMENT FOR SOCIETA' AEROPORTI DI ROMA, THE ROME AIRPORT HANDLING COMPANY AUTHORITY IS CONVINCED THAT THE EU COURT WILL RULE AGAINST BILATERAL OPEN SKIES AGREEMENTS AND THAT A MANDATE WILL BE GIVEN TO THE EC TO NEGOTIATE FOR THE MEMBER STATES. HE EXPECTS THAT, "ALTHOUGH THE U.S. GOVERNMENT ALREADY HAS SIGNED AGREEMENTS WITH CARIBBEAN AND APEC COUNTRIES AND MAY SIGN A BILATERAL, UNRESTRICTED AGREEMENT WITH CANADA, THE U.S. WILL NOT EASILY AGREE TO A SINGLE OPEN SKIES AGREEMENT WITH THE EU." IN THE MEANTIME, WHILE NO U.S.-EU AGREEMENT

IS IN PLACE, THE BILATERAL OPEN SKIES AGREEMENTS WILL
CONTINUE IN FORCE. THE PROCESS, HE EXPLAINS, OF
INVALIDATING THE EXISTING AGREEMENTS AND GIVING EXCLUSIVE
COMPETENCE TO THE EC TO NEGOTIATE A SINGLE U.S.-EU
AGREEMENT, WILL BE LONG. NOT ONLY IS THE VALUE OF
NEGOTIATED RIGHTS EXTREMELY HIGH, BUT THE AGREEMENT WILL
SET A PRECEDENT FOR ALL FUTURE EU AVIATION AGREEMENTS.

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